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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,157	05/23/2001	Thomas Fletcher	115426-994	8808
29158	7590	06/19/2006	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			COULTER, KENNETH R	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,157

Applicant(s)

FLETCHER ET AL.

Examiner

Kenneth R. Coulter

Art Unit

2141

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment After Final on 5/19/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-8,11-13,16-18,21-23,26-28,30,31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8,11-13,16-18,21-23,26-28,30,31,33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2005 and 23 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment after final filed on 5/19/2006 has been entered.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 21 – 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 21 – 23 are directed to software that is not implemented on a computer-readable **storage** medium.

Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2141

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 3, 6 – 8, 11 – 13, 16 – 18, 21 – 23, 26 – 28, 30, 31, 33, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Dillon et al. (U.S. Pat. No. 6,658,463) (Satellite Multicast Performance Enhancing Multicast HTTP Proxy System and Method).

The applied reference has a common assignee and one common inventor (Douglas M. Dillon) with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

4.1 Regarding claim 1, Dillon discloses a method of performing an address look-up, the method comprising:

receiving a query, at a terminal, from a local host requesting address information (Figs. 5c – 5e, 6; Abstract; col. 2, line 63 – col. 3, line 26; col. 8, lines 41 – 62);

determining whether the address information is stored in memory (Figs. 5c – 5e, 6; Abstract; col. 4, lines 22 – 41; col. 8, lines 41 – 62);

transmitting the address information by the terminal to the local host if the address information is stored in the memory (Figs. 5c – 5e, 6; Abstract; col. 4, lines 22 – 41; col. 8, lines 41 – 62);

forwarding the query over a wide area network via a satellite to a remote computer system to retrieve the address information, if the address information is not stored in the memory, wherein the satellite is remote from the terminal (Figs. 4, 5c – 5e, 6; Abstract; col. 4, lines 22 – 41 “cache miss”; col. 2, lines 5 – 45);

receiving a multicast message to pre-load the memory with the address information (Abstract; col. 9, lines 7 – 17; col. 4, lines 22 – 41; col. 10, line 60 – col. 11, line 8).

4.2 Per claim 2, Dillon teaches the method according to claim 1, further comprising: updating the address information in memory with the retrieved address information from the remote computer system (col. 17, lines 1 – 12).

4.3 Regarding claim 3, Dillon discloses the method according to claim 1, wherein the query in the receiving step specifies a domain name, and the address information corresponding to the domain name is an Internet Protocol (IP) address (col. 9, lines 7 – 17).

Art Unit: 2141

4.4 Per claims 6 – 8, 11 – 13, 16 – 18, 21 – 23, 26 – 28, 30, 31, 33, and 34, the rejection of claims 1 – 3 under 35 USC 102(e) (paragraphs 4.1 – 4.3 above) applies fully.

5. Claims 1 – 3, 6 – 8, 11 – 13, 16 – 18, 21 – 23, 26 – 28, 30, 31, 33, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Chatterjee et al. (System and Method for Internet Page Acceleration Including Multicast Transmissions).

5.1 Regarding claim 1, Chatterjee discloses a method of performing an address look-up, the method comprising:

receiving a query, at a terminal, from a local host requesting address information (Figs. 4, 5; Abstract “request for the objects”; col. 2, lines 32 – 35 “requesting web pages and objects”; col. 3, lines 14 – 31; col. 7, lines 24 – 53);

determining whether the address information is stored in memory (Abstract; col. 3, lines 14 – 31; col. 7, lines 24 – 53);

transmitting the address information by the terminal to the local host if the address information is stored in the memory (Abstract “assemble data objects at locations proximate to a source to avoid latency over delayed links”; col. 7, lines 24 – 53);

forwarding the query over a wide area network via a satellite to a remote computer system to retrieve the address information, if the address information is not

Art Unit: 2141

stored in the memory, wherein the satellite is remote from the terminal (Abstract; col. 3, lines 14 – 31 “The cache then sends a request to the host station through the satellite communications system for each identified object contained in the linked list of objects that is not stored in the cache”; col. 7, lines 24 – 53);

receiving a multicast message to pre-load the memory with the address information (Abstract; col. 6, lines 15 – 33; col. 7, lines 24 – 53 “the present invention **updates caches** associated with a plurality of terminal devices using, for example, **multicast protocols that allow for efficient transmission of cache data over a satellite network.**”).

5.2 Per claim 2, Chatterjee teaches the method according to claim 1, further comprising: updating the address information in memory with the retrieved address information from the remote computer system (Abstract; col. 6, lines 15 – 33; col. 7, lines 24 – 53).

5.3 Regarding claim 3, Chatterjee discloses the method according to claim 1, wherein the query in the receiving step specifies a domain name, and the address information corresponding to the domain name is an Internet Protocol (IP) address (col. 7, lines 24 – 53 “Thus, the delay of transmitting the **IP address** across the satellite from the remote station and receiving the request back is substantially reduced.”).

Art Unit: 2141

5.4 Per claims 6 – 8, 11 – 13, 16 – 18, 21 – 23, 26 – 28, 30, 31, 33, and 34, the rejection of claims 1 – 3 under 35 USC 102(e) (paragraphs 5.1 – 5.3 above) applies fully.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KENNETH R. COULTER
PRIMARY EXAMINER



krc